

Aug. 14, 1995

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LERNER DAVID LITTENBERG

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08/16/95
PATENT

GROUP 1800
FORSY 1-0-001 FWC CIP CONT FWC DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of :
Gautvik et al. :
Serial No. 08/340,664 : Group Art Unit: 1812
Filed: November 16, 1994 : Examiner: L. Spector
For: PRODUCTION OF HUMAN PARATHYROID :
HORMONE FROM MICROORGANISMS :
X
Assistant Commissioner for Patents
Washington, D. C. 20231

COMMUNICATION

Sir:

The undersigned would like to thank Examiner Spector for courtesies extended by her during a telephone conversation of August 14, 1995, and hereby submits a Communication which the Examiner agreed would be helpful in memorializing our prior discussion. During that conversation, the undersigned explained that on April 7, 1995, Examiner Ketter imposed a three-way Restriction Requirement in the above-captioned application. In their response thereto, on June 6, 1995, Applicants responded electing, with traverse, the Group I invention drawn to claims 1-5, 11, 13 and 15.

To continue prosecution on the two groups of non-elected claims, Applicants also filed two divisional

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent Office on the date shown below.

Michael H. Teschner, Esq.


Signature


Date

To: U.S.P.T.O
Attn: Examiner L. Spector
Fax No.: (703)308-0294
No. of Pages: 3

applications: Serial No. 08/463,222 filed June 5, 1995 claiming the Group II invention and Serial No. 08/461,436 filed June 5, 1995 claiming the Group III invention.

Applicants believed they were filing Rule 60 Divisional applications and had no intention of abandoning this application (Serial No. 340,664). However, due to a typographical error, while the proper forms for a Rule 60 Divisional application were used, those forms incorrectly indicate divisional applications filed pursuant to Rule 62. The error should be readily apparent from a review of the files. For example, Applicants' confirming postcard indicated the enclosure of a Rule 60 divisional application including a copy of the prior application and drawings. Similarly, the form contains provisions to allow for the transfer of drawings, if appropriate, and a verification that the attached papers are true and proper copies of prior applications. No express abandonment was provided in these papers.

One of the aforementioned divisional applications was denied a filing date as being improper under Rule 62(e). However, Serial No. 461,436 was granted a filing date. The granting of that filing date should be withdrawn as violating Rule 62(e) and Applicants will then petition separately to have each of the divisional applications reconsidered as Rule 60 divisional applications. Since the grant of a filing date for the 461,436 application was improper under Rule 62(e) and as Applicants have not expressly abandoned the above-captioned application, the present application should be maintained as pending and prosecution on the merits should continue uninterrupted.

Should the Examiner have any questions with regard to the foregoing, he should feel free to contact the undersigned at 908-654-5000. Similarly, should any fee be due and owing in this regard, the Examiner should charge Deposit Account No. 12-1095 therefor.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK



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